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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/986,476	11/08/2001	Keisuke Tanaka	2091-0247P	5608

7590 11/14/2007
BIRCH, STEWART, KOLASCH & BIRCH, LLP
P.O. Box 747
Falls Church, VA 22040-0747

EXAMINER

MILIA, MARK R

ART UNIT	PAPER NUMBER
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2625

MAIL DATE	DELIVERY MODE
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11/14/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/986,476

Applicant(s)

TANAKA, KEISUKE

Examiner

Mark R. Milia

Art Unit

2625

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 28 September 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1, 2, 4, 7-9, 11, 14-16, 18 and 20-22.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See attached explanation.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

DETAILED ACTION

Response to Amendment

1. Applicant's amendment was received on 9/28/07 and has been entered since claims 1, 8, and 15 have been amended to incorporate subject matter of dependent claims 5, 12, and 19 and since the amendment reduces issues for the purpose of Appeal. Currently, claims 1-2, 4, 7-9, 11, 14-16, 18, and 20-22 are pending.

Response to Arguments

2. Applicant's arguments filed 9/28/07 have been fully considered but they are not persuasive.

Applicant asserts that the combination of Chui (US 6,657,702) and Fredlund (US 6,154,295) fails to disclose the limitations set forth in claims 1, 8, and 15, specifically that Fredlund does not disclose a server adapted to extend the predetermined storage period for the image data for which the order was placed. The examiner respectfully disagrees as the combination of Chui and Fredlund does disclose all the limitations set forth in claims 1, 8, 15, and 22. Particularly, Fredlund discloses that processed film is scanned to produce a digital image file (column 3 lines 24-26) and also discloses that the photofinisher may not make any prints until the customer places an order (see column 4 lines 39-41) and a specified storage period is set, if no order is placed during

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the time period then the file is automatically deleted (see column 4 lines 43-46). The computer 26 is responsible for control over all of these processes. Fredlund further discloses that the storage time period can be extended by a customer by calling a 1-800 number and using a touch tone telephone, without requiring additional personnel (see column 3 lines 41-57 and column 4 lines 50-55). Even though the customer initializes the extension of time, the computer 26 (server) actually changes the time period. Further, Chui discloses a system in which an on-line interaction between a customer computer terminal and a server, via a network, is utilized to order digital image prints that have been transferred to the server by a customer. It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the setting of a storage period and the ability to extend the storage period because it would be beneficial for both the customer and the service provider. It is beneficial to a customer because it allows the user more time to decide when, and if the user desires prints of the digital images. It is beneficial to the service provider because if a user does not place an order within the predetermined time period that the digital image files are deleted, thus freeing up memory space that the service provider can use for another customer. Even further, Chui and Fredlund are very much combinable because both disclose systems for ordering prints of digital images.

Therefore, the rejection of claims 1-2, 4, 7-9, 11, 14-16, 18, and 20-22, as set forth in the previous Office Action, is maintained.

Conclusion

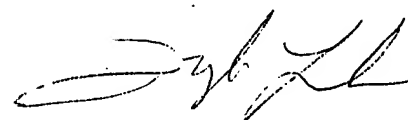
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark R. Milia whose telephone number is (571) 272-7408. The examiner can normally be reached M-F 8:00am-4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Twyler M. Lamb can be reached at (571) 272-7406. The fax number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MRM

Mark R. Milia
Examiner
Art Unit 2625



SUPERVISORY PATENT EXAMINER
TWYLER M. LAMB
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